

**Final Statement of Reasons for the Adoption of the
Proposed Amendments to California Code of Regulations,
Title 18, Section 1502, *Computers, Programs, and Data Processing***

Update of Information in the Initial Statement of Reasons

The factual basis, specific purpose, and necessity for, the problems to be addressed by, and the anticipated benefits from the adoption of the proposed amendments to California Code of Regulations, title 18, section (Regulation) 1502, *Computers, Programs, and Data Processing*, are the same as provided in the initial statement of reasons. The State Board of Equalization (Board) did not make any changes to the text of the proposed amendments prior to the Board's adoption of the proposed amendments at the conclusion of the December 17, 2013, public hearing.

The Board anticipates that the proposed amendments to Regulation 1502 will provide the following benefits:

- Eliminate confusion by clarifying to the public and staff that a backup copy of a prewritten program recorded on tangible storage media may be included in a maintenance contract sold in connection with the sale or lease of the same prewritten program;
- Provide clarification to the public and staff that taxable optional maintenance contracts are still taxed the same, even if they include a backup copy of a prewritten program recorded on tangible storage media; and
- Maintain the bright-line rule that 50 percent of the lump-sum charge for an optional maintenance contract that entitles the customer to receive tangible personal property is taxable, even when such a contract is paired with a nontaxable electronic download or load-and-leave transaction.

The adoption of the proposed amendments to Regulation 1502 was not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to Regulation 1502 or the proposed amendments to Regulation 1502.

The Board did not rely on any data or any technical, theoretical, or empirical study, report, or similar document in proposing or adopting the proposed amendments to Regulation 1502 that was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period.

In addition, the factual basis has not changed for the Board's initial determination that the proposed regulatory action will not have a significant adverse economic impact on business and the Board's economic impact assessment, which determined that the Board's proposed regulatory action:

- Will neither create nor eliminate jobs in the State of California;
- Nor result in the elimination of existing businesses;
- Nor create or expand business in the State of California; and
- Will not affect the health and welfare of California residents, worker safety, or the state's environment.

The proposed regulation may affect small business.

No Mandate on Local Agencies or School Districts

The Board has determined that the adoption of the proposed amendments to Regulation 1502 does not impose a mandate on local agencies or school districts.

Public Comments

The Board did not receive any written comments regarding the proposed regulatory action and no interested parties appeared at the December 17, 2013, public hearing to comment on the proposed regulatory action.

Determinations Regarding Alternatives

By its motion on December 17, 2013, the Board determined that no alternative to the proposed amendments to Regulation 1502 would be more effective in carrying out the purposes for which the amendments are proposed, would be as effective and less burdensome to affected private persons than the adopted amendments, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Board did not reject any reasonable alternatives to the proposed amendments to Regulation 1502 that would lessen any adverse impact the proposed amendments may have on small business.

No reasonable alternatives have been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.